

1       (D)    REMARKS, DRAWING AMENDMENTS

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3       The issue is whether U.S. Pat. No. PG Pub. No. 2002/0049624, Ser. No. 09/974,002 (Raveis  
4       S/N002) anticipates all the claims the present application under Sec. 102 (e) .

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6       Sec. 102(e) is:

7               “the invention was described in (1) an application for patent, published under section  
8               122(b), by another filed in the United States before the invention by the applicant for  
9               patent, or (2) a patent granted on an application for patent by another filed in the United  
10          States before the invention by the applicant... .”

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12          The filing date of Raveis SN002 application is Oct. 9, 2001, the publication date is Apr. 25, 2002  
13          Raveis SN002 is not a granted patent.

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15          The filing date of the present application is April 11, 2001, claiming priority from Provisional  
16          Application 60/198785, filed April 20, 2000. Both dates are filing dates prior to Raveis SN002  
17          application and publication.

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19          Raveis SN002 is not a proper reference under Sec. 102 (e). The rejection should be withdrawn.

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21          While applicant is not required to make arguments other than in direct response to the Action's  
22          allegations, applicant will make an extra effort herein in order to advance prosecution and move  
23          this application to allowance. It can be noted that Raveis SN002 is:

24               a Continuation-In-Part (CIP) of Ser. No. 09/459,234 filed on Dec. 10, 1999, Pat. No.  
25               6,321,202 issued Nov. 20, 2001 (Raveis '202), and  
26               a CIP of Ser. No. 09/759,621 filed on Jan. 11, 2001 (Raveis SN621), and  
27               a CIP of Ser. No. 09/798,656 filed on Mar. 1, 2001 (Raveis SN656), and  
28               a non-provisional of provisional appl. no. 60/260,688 filed on Jan. 9, 2001.

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30          Thus, the only date earlier than present applicant's provisional Priority Date of April 20, 2000  
31          effective in the present application is the Raveis '202 patent, filed Dec. 10, 1999. In other  
32          words, the Raveis '202 patent was filed only about four (4) months prior to the present  
             applicant's Provisional Application. Thus, Raveis can not meet the requirements under Sec.

1 102(b) as his concept is not shown to be "...patented or described in a printed publication in this  
2 or a foreign country or in public use or non sale in this country, more than one year prior to the  
3 date of the application for patent in the United States,...". Again, it is not a proper reference  
4 within the legal requirement.

5  
6 Nevertheless, again, in order to advance prosecution, submitted herewith is a Declaration of C.  
7 Richard Triola swearing behind the Raveis '202 patent.

8  
9 While the points of the Action and other points noted above are rendered moot, in order to  
10 advance prosecution, as to the merits of para. 6 - 23 of the Action, applicant contends that there  
11 is no showing that Raveis anticipates the present invention; neither would it suggest, motivate,  
12 nor otherwise render the present invention to be obvious. While using some similar language  
13 as the present application, a careful reading of Raveis '202 finds only a *pre-escrow* real estate  
14 *agent-centered* concept. In other words, it allows a *real estate agent to manage his work in*  
15 *creating a buy-sell contract*. This work is accomplished *outside* a real estate escrow and *before*  
16 a real estate escrow for transferring title from the seller to the buyer.

17  
18 This must be compared to the generally *escrow-centric* system and process of the present  
19 invention. For example, there is no disclosure by Raveis '202 of an ability to perform the  
20 processes, procedures, document distribution, electronic document execution, and the like as  
21 described and claimed in the present application for a real estate escrow. In other words, there  
22 is no teaching by Raveis '202 for the electronic preparation, delivery, and execution of the  
23 documents required to legally *change ownership* of real estate, the process referred to in many  
24 States and countries as a "real estate escrow." That is, a careful reading of Raveis '202 finds  
25 only evidence for processes and procedures of a sales negotiation by a real estate agent and  
26 the marketing of vendor services to the potential buyer and sell (e.g., claim 1(d), col. 14, ll. 38-  
27 42) and for the agents to keep a data base (claim 1(e) and (f)) of such vendors. These are pre-  
28 escrow contract negotiation items. As such, Raveis '202 does not anticipate the present  
29 invention, its teaching, and its claims to escrow processes and systems.

1      Applicant specifically reserves the right to argue each paragraph of the present Action on a  
2      point-by-point basis in support of any continuing procedures at the USPTO should the reference  
3      not be withdrawn.

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5      Furthermore, it is noted here for the record that the Action makes no allegations other than to  
6      paraphrase each of applicant's claims and to append a chain-cite of mere references parts of  
7      the Raveis SN002 published application. No explanation, no argumentative reasoning, of how  
8      Raveis SN002 language or drawings is so applicable is offered at all. In other words, applicant  
9      is left to speculate as to fitting the parts together with applicant's claims. This format for  
10     rejection is *prima facie* hindsight reasoning *using the invention* for which a patent is sought as a  
11     template. This is impermissible. Texas Instruments, Inc. v. ITC, 26 USPQ2d 1018 (CA FC  
12     1993).

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14     Based upon the foregoing, it is submitted that the application now presents claims which are  
15     directed to novel, unobvious and distinct features of the present invention which are an  
16     advancement to the state of the art. Reconsideration and allowance of all claims is respectfully  
17     requested. The right is expressly reserved to reassert any and all arguments, including the  
18     raising of new arguments, and the filing of appropriate continuing procedures at the USPTO,  
19     should a Notice of Allowance not be forthcoming.

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21     Questions or suggestions that will advance the case to allowance may be directed to the  
22     undersigned by teleconference at the Examiner's convenience.

23     Date: DEC . 2 , 2003

Respectfully submitted,  
C. Richard Triola,

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